D

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Application of Verizon Pennsylvania, Inc.	)	
Pursuant to Section 271 of the	)	**CC Docket No. 01-138**
Telecommunications Act of 1996	)	
To Provide In-Region, InterLATA Services	)	
in Pennsylvania	)	

JOINT DECLARATION OF JOSEPH BLOSS AND
E. CHRISTOPHER NURSE
ON BEHALF OF AT&T CORP.

AT&T EXHIBIT D

TABLE OF CONTENTS

I. INTRODUCTION

1. My name is Joseph R. Bloss. I am presently employed by AT&T as a Manager in the AT&T Performance Management Organization. My responsibilities include the negotiation of wholesale performance standards with Verizon. I have been an active member of the New York Carrier to Carrier Collaborative for the past four years. I am also actively involved in proceedings before state commissions throughout the entire former Bell Atlantic footprint that address Carrier to Carrier ("C2C") Guidelines and performance assurance plans. Currently I am working on the development of metrics and remedies for Vermont, the District of Columbia, Maryland and Virginia. My organization also receives the actual, monthly carrier-to-carrier performance reports and the associated raw data files ("flat files") from Verizon for the states of Pennsylvania, Massachusetts, New York, New Jersey and Virginia.

2. I have twenty-nine years of experience working for AT&T. From 1972 until 1993, I worked for AT&T as an Operations Supervisor and was principally involved in network provisioning, planning and engineering. In 1993, I worked for AT&T International, negotiating with foreign telecommunications companies to develop trunking and network routing solutions to relieve traffic congestion. Beginning in 1995, I became involved in defining the processes applicable to local loop certification and technology, including the use of copper, hybrid fiber coax, and fixed wireless technologies.

3. My name is E. Christopher Nurse. I am District Manager of Government Affairs for AT&T. I received a B.A. in Economics from the University of Massachusetts at Amherst. In 1996, I received a Masters in Business Administration from the Graduate School of Business at New Hampshire College, in Manchester, New Hampshire. Until recently I held the position of

Manager of Regulatory and External Affairs for AT&T Local Services. I have testified before numerous state commissions on behalf of AT&T.

4. Prior to joining AT&T, I was employed in the same capacity by Teleport Communications Group, Inc., beginning in February 1997.[1] Prior to that time, I was a telecommunications analyst with the New Hampshire Public Utilities Commission, from 1991 to February 1997. I was assigned to the Engineering Department and was entrusted with a broad range of responsibilities in telecommunications. From 1981 to 1991, I held positions of increasing responsibility in installation, maintenance and repair, construction, operations, and engineering with a number of cable television operators, including predecessors of AT&T Broadband.

II. FRAMEWORK FOR REVIEW OF THE PENNSYLVANIA PAP

5. The Commission considers as part of its public interest analysis of section 271 applications whether the applicant would be likely to continue to comply with the section 271 checklist even after its application is approved. One of the primary mechanisms that the Commission has found to be essential to prevent against "backsliding" is whether the applicant is subject to a performance enforcement and remedy plan containing the following features:[2]

a. The structural elements of the Plan are designed to detect and impose sanctions for poor and/or discriminatory performance when it occurs.

b. In order to be able to detect discriminatory conduct, the performance measurements and standards of the Plan must be complete and accurate.

---

[1] Effective July 24, 1998, Teleport Communications Group and its subsidiaries became wholly owned subsidiaries of AT&T Corp.

[2] Memorandum Opinion and Order, *Application of Verizon New England Inc., Bell Atlantic Communications, Inc. (d/b/a Verizon Long Distance), NYNEX Long Distance Company (d/b/a Verizon Enterprise Solutions) And Verizon Global Networks Inc., For Authorization to Provide In-Region, InterLATA Services in Massachusetts,* 2001 FCC LEXIS 2117 (April 16, 2001) at ¶¶236-247; Memorandum Opinion and Order, *Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York,* 15 FCC Rcd. 3953 (1999) at ¶¶429-442.

c. The potential liability to the applicant under the Plan provides a meaningful incentive for it to comply with the Plan's performance standards. Thus, the remedy payments under the Plan must represent much more than a mere cost of doing business to the applicant.

d. The data that the applicant uses to compute the wholesale service performance reports must be valid and verifiable.

e. The plan must be self-executing and must not leave open the need for unreasonable litigation.

Because of the various infirmities in its structure as well as its administration, the Pennsylvania Performance Assurance Plan ("PAP") achieves *none* of these objectives.

6. Because of the many problems with the existing Plan that we discuss below, the PAP is not an effective deterrent that would discourage Verizon from backsliding. In fact, although this Plan has been in effect for over a year, Verizon still does not comply with many of its requirements, demonstrating that it has not provided Verizon significant incentives to provide nondiscriminatory service. The existing problems that render the current Pennsylvania PAP ineffective include, but are not limited to, the following:

- Critical performance measurements are omitted;
- Verizon refuses to comply with the Pennsylvania PUC's ("PaPUC's") explicit directives to report on all measurements included within the Plan;
- Verizon continues to challenge the accuracy of various performance measurements and definitions contained in the Plan, while at the same time asserting that the Plan is sufficient to satisfy the 271 public interest test;
- Verizon's monthly performance reports and remedies calculations are incomplete, unreliable and incapable of third party validation;
- Verizon fails to abide by change management procedures that are needed to inform interested parties in advance of the modifications that it makes to its metric calculations and reports; and
- Verizon's potential liability for remedy payments is utterly inadequate to provide an incentive against backsliding as demonstrated by contrasting the New York and Pennsylvania PAPs.

III. THE DEVELOPMENT OF THE PENNSYLVANIA PAP

7. Recognizing the keen importance of monitoring Verizon's provision of wholesale service to CLECs to assure that Verizon fulfills its responsibility to provide nondiscriminatory service, the PaPUC convened a formal proceeding in April of 1999 to establish appropriate performance standards and remedies.[3] The purpose of these metrics is to collect and measure objective quantitative data concerning competitors' use of Verizon's OSS and to compare that information against Verizon retail operational activities. The goal is to determine whether competitors receive the same level and same quality of service – "parity"— that Verizon provides to its own retail operations, and where a particular OSS functionality is not used in Verizon's retail operations that competitors have a meaningful opportunity to compete.[4]

8. From the very beginning, Verizon has, at best, grudgingly complied with the PaPUC's directives in its *Performance Measurements Proceeding.* For example, the PaPUC's December 31, 1999 Opinion and Order in that docket[5] directed Verizon to submit a "compliance filing" that implemented the order.[6] However, Verizon's February 2000 response made so many

---

[3] Opinion and Order, *Joint Petition of Nextlink, et. al. for an Order Establishing a Formal Investigation of Performance Standards, Remedies, and Operations Support Systems Testing for Bell Atlantic-Pennsylvania, Inc.*, P-00991643 (April 30, 1999).

[4] Of course, since Verizon's retail operations directly access Verizon's legacy systems that provide all of the information and records needed to serve retail customers, the performance standards evaluation is an incomplete substitute for requiring Verizon's retail operations to use the same OSS that CLECs must use to obtain wholesale service. In fact, when the PaPUC voted to establish the performance standards at the November 5, 1999 public meeting, Chairman Quain expressly noted the linkage of performance standards and remedies to structural separations and stated that performance standards could be set at less stringent levels in Pennsylvania because Verizon was under order to structurally separate its operations into discrete retail and wholesale operations. In the intervening 18 months, however, the PaPUC decided not to require Verizon to structurally separate its operations. However, the PaPUC did not concomitantly adjust the performance standards to make them appropriately stringent.

[5] *Joint Petition of Nextlink, et al. for an Order Establishing a Formal Investigation of Performance Standards, Remedies, and Operations Support Systems Testing for Bell Atlantic-Pennsylvania, Inc.*, P-00991643 (Order entered December 31, 1999) ("*Performance Measurements Order*").

[6] *Id.* at 179-180.

unilateral changes to -- and deviations from -- that order that the PaPUC was forced to issue a second Order in July 2000 that overruled Verizon's unauthorized unilateral modifications.[7]

9. Verizon also successfully sought reconsideration of both the PUC's original December 1999 order and its July 2000 order on various issues.[8] Still not satisfied, Verizon filed a petition to modify various performance standards, which the PUC approved in part and denied in part in November 2000.[9] Verizon then filed another version of the PAP and C2C guidelines on December 1, 2000, which were modified to incorporate xDSL metrics in February 2001.[10] These guidelines are currently in effect and were used by the PUC to evaluate Verizon's wholesale performance during the January through March 2001 commercial availability period.

10. Verizon also sought to attack the PaPUC's PAP from a legal front. At the same time that Verizon initiated its piecemeal attack on the PAP in front of the PUC, Verizon also initiated a state court appeal seeking to overturn the PAP on the grounds that the PUC lacks authority to order Verizon to pay remedies for discriminatory and substandard levels of wholesale service.[11] Verizon's appeal of the PaPUC's *Performance Measurements Order* claimed that the self-

[7] Opinion and Order, *Joint Petition of Nextlink, et al. for an Order Establishing a Formal Investigation of Performance Standards, Remedies, and Operations Support Systems Testing for Bell Atlantic-Pennsylvania, Inc.*, P-00991643 (Order entered September 1, 1999).

[8] Opinion and Order, *Joint Petition of Nextlink, et al. for an Order Establishing a Formal Investigation of Performance Standards, Remedies, and Operations Support Systems Testing for Bell Atlantic-Pennsylvania, Inc.*, P-00991643 (Order entered July 21, 2000); Opinion and Order, *Joint Petition of Nextlink, et al. for an Order Establishing a Formal Investigation of Performance Standards, Remedies, and Operations Support Systems Testing for Bell Atlantic-Pennsylvania, Inc.*, P-00991643 (Order entered October 16, 2000).

[9] Opinion and Order, *Joint Petition of Nextlink, et al. for an Order Establishing a Formal Investigation of Performance Standards, Remedies, and Operations Support Systems Testing for Bell Atlantic-Pennsylvania, Inc.*, P-00991643 (Order entered November 14, 2000)

[10] DSL Metrics Order, *Consultative Report on Application of Verizon Pennsylvania Inc. for FCC Authorization to Provide In-Region InterLATA Service in Pennsylvania,* Docket No. M-00001435 (Order entered February 22, 2001).

[11] *Verizon Pennsylvania Inc. v. Pa. PUC, Petition for Review,* 1902 C.D. 2000, *Commonwealth Court of Pennsylvania.*

executing remedies that Verizon itself relies on for its 271 Application were beyond the PUC's authority and that the PUC could not order *any* self-executing remedies without Verizon's consent.[12]

11. Recognizing the incongruity of Verizon's positions in relying on the PAP to support its section 271 request while at the same time seeking to invalidate the PAP in state court, the PaPUC required Verizon to withdraw its state court appeal as a condition of obtaining a favorable consultative recommendation from the PUC.

12. Verizon nominally accepted that "condition" from the PaPUC. However, in withdrawing its appeal, Verizon merely dismissed its pending complaint *without prejudice. Thus*, it did not eliminate its right in the future to challenge the PUC's authority to order Verizon to pay remedies if they are in amounts that Verizon dislikes.

13. Indeed, such a scenario is a distinctive possibility in the near future. The PaPUC has initiated a new proceeding to review the performance measurements and remedies under the existing PAP, directing that there will be a "rebuttable presumption" that the New York remedies structure should be implemented in Pennsylvania.[13] As an initial matter, it is obvious that the possibility of a *future* PAP resulting from future PaPUC action cannot take the place of an actual and effective PAP that meets this Commission's standards as identified above. Moreover, although carriers such as AT&T previously offered to compromise on the terms of a Pennsylvania

---

[12]As Verizon's General Counsel explained the Company's position at the March 15, 2001 state Technical Conference, "I guess what I would have to say is that our legal position is that the Commission does not have the statutory authority to impose the liquidated damages." Tr. at 126. In response to questioning by Commission Staff, Verizon's counsel verified Verizon's position that self-executing remedies can only be required of Verizon on a voluntary basis and that the Commission "couldn't order [Verizon] to pay particular dollar amounts." Tr. at 127-28.

[13] First Prehearing Order, *Re Performance Measurements Remedies* at 1, Docket No. M-00011468 (June 22, 2001).

PAP and to accept a proportionally-scaled New York PAP for Pennsylvania (as Verizon agreed to for both Massachusetts and Connecticut), Verizon has flatly opposed implementing the New York PAP in Pennsylvania.[14] Thus, if Verizon should dislike the outcome of that proceeding, it remains free to resurrect its legal challenge to the PaPUC's authority, and, if successful, could completely rescind the entire Pennsylvania PAP. Such a challenge poses a serious threat to competition and, by definition, forecloses a finding that Verizon's local markets are, and will remain, irreversibly open.

14. If Verizon were successful in appealing a future (and adequate) PAP, the PaPUC's authority over Verizon's self-executing remedies would be removed and Verizon could object to -- or evade -- the payment of some or all future performance consequences at its own whim. Verizon's potential to exercise veto power over remedy levels threatens the very fabric of the section 271 process and the Commission's oversight authority under the public interest standard.[15] Although the PaPUC's Consultative Report states that it does not "expect" Verizon to seek to undo the conditions underlying its positive recommendation on this application,[16] there is nothing to prevent Verizon from doing just that. Therefore, this serious threat to competition in Pennsylvania must be addressed in this proceeding. The Commission should make clear that, prior to approving the current application, Verizon must have *in place* an *adequate* PAP -- not

[14] Response of Verizon Pennsylvania Inc. To Staff's En-Banc Data Request Number 14 Dated May 2, 2001 Submitted In Docket M-00001435 Before The PA PUC (Pa-271) (Chairman Quain's Question).

[15] At the March 15, 2001 Technical Conference, Verizon indicated that even if it withdrew its pending Commonwealth Court appeal, the Company intended to maintain its legal position that the Commission does not have authority to require self-executing remedies for purposes of future challenge. Tr. at 125. Essentially, Verizon is insisting that it maintain veto power over the Commission's remedies decisions now and forever more.

[16] *Consultative Report of the Pennsylvania Public Utility Commission,* CC Docket No. 01-138 (June 25, 2001) at 268 ("*Consultative Report*).

just the current inadequate and incomplete version – that is proportionally identical to the PAPs that Verizon found acceptable for New York and Massachusetts, and that Verizon will not seek to overturn in some future prospective appeal.

IV. THE CURRENT PLAN DOES NOT CONTAIN COMPLETE AND ACCURATE PERFORMANCE MEASUREMENTS NEEDED TO DETECT AND SANCTION VERIZON'S DISCRIMINATORY CONDUCT.

15. Since the PaPUC's initial adoption of Verizon's C2C metrics over a year ago, numerous modifications to the C2C Guidelines in other states in the former Bell Atlantic-South footprint have been adopted that should be reported in Pennsylvania. Because there has not yet been a comprehensive re-examination of the Pennsylvania C2C Guidelines, however, the metrics in the Pennsylvania PAP have become incomplete due to inaction.

16. At the end of the State's section 271 review proceeding, Verizon proposed to convene a Pennsylvania C2C working group collaborative that would begin its work by incorporating the existing New York C2C performance measurements and guidelines into Pennsylvania. But whether or not Verizon ultimately proceeds to implement this proposal is not relevant to the issue in this case, i.e., whether the *current* C2C performance standards are accurate and complete, and whether they will detect and sanction Verizon's discrimination against its competitors. The fact of the matter is that, as of today, the currently effective C2C guidelines are incomplete and inadequate because they omit critical measurements of Verizon's wholesale performance.

17. Moreover, AT&T has substantial concerns with Verizon's proposal that the PaPUC did not address in its *Consultative Report*. Verizon suggests that only "agreed-upon" changes to metrics in the New York collaborative would be automatically incorporated in Pennsylvania. Thus, if the New York Commission ordered Verizon to implement changes to the C2C guidelines,

Verizon would not agree to implement them in Pennsylvania. Instead, Verizon would reserve the right to challenge their adoption in Pennsylvania. This had not happened in Massachusetts or Connecticut, and it should not occur in Pennsylvania. [17]

18. The best example of the need for update and change to the current Pennsylvania C2C measurements is the recent emergence of line sharing and line splitting requirements. Verizon has a current obligation in Pennsylvania to provide both line sharing and line splitting.[18] While the New York industry collaborative has developed certain metrics for line sharing, it has not yet developed metrics for line splitting. Thus, in Pennsylvania, although the parties have been able to agree on the use of New York metrics for line sharing, there is no such agreement on metrics for line splitting.

19. However, the Commission's January, 2001 *Line Sharing Reconsideration Order* holds not only that line splitting is a "current" obligation (*id.* ¶ 18); it also requires section 271 applicants "to demonstrate, in the context of section 271 applications, they permit line splitting." And in order to show that it is providing line splitting in a nondiscriminatory manner compared with the manner in which it provides functionally equivalent capabilities to its own (or its

[17] This proposal does not meet AT&T's objective to assure that the parties efficiently manage their resources to monitor and facilitate the regular updating of Pennsylvania C2C guidelines to reflect the parties' efforts to resolve metrics issues in New York. All metrics—including all metrics that are ordered by the NYPSC—should be automatically implemented in Pennsylvania. The parties should use the Pennsylvania collaborative to discuss and address ongoing issues and concerns regarding the C2C monthly reports and remedies reports. At a minimum, Verizon should be required to provide monthly statements that explain the CLEC aggregate remedies that Verizon must pay in addition to a statement of the remedies payments it must remit to each qualifying CLEC. Only by doing so could the PaPUC and others get a true impression of Verizon's monthly performance.

[18] Third Report and Order in CC Docket No. 98-147, Fourth Report and Order in CC Docket No. 96-98, *In re Deployment of Wireline Services Offering Advanced Telecommunications Capability*, FCC 99-135 (December 9, 1999) at ¶25 (ILECs are legally obliged to offer line sharing); Third Report and Order On Reconsideration in CC Docket No. 98-147, *In re Deployment of Wireline Services Offering Advanced Telecommunications Capability,* FCC 01-26 (January 19, 2001) at ¶20 n.36. (ILECs have a current legal obligation to offer line splitting).

affiliate's) DSL services, Verizon PA must have *the metrics necessary to measure its performance* and demonstrate its ability to perform in a nondiscriminatory manner. Although AT&T suggested during the state 271 proceeding that such metrics should be independently developed by the Pennsylvania Commission, Verizon did not support this recommendation. Consequently, there are still no line splitting metrics in the Pennsylvania C2C Guidelines. Such metrics should be approved and implemented before Verizon's 271 application can be approved.

20. Other infirmities in the existing C2C guidelines allow Verizon to mask discriminatory conduct. For example, the pre-ordering metrics in the current version of the C2C guidelines allow Verizon to omit reporting slow response times for its Web GUI OSS interface. During the last quarter of 2000 into January 2001, AT&T frequently encountered difficulties using Verizon's Web GUI interface. The interface was out of service altogether—precluding the submission of any transactions or queries—for extended periods of time without any advance warning. During other periods, the interface responded so slowly to queries and transactions that the transactions take a commercially unreasonable amount of time for processing, or equally problematic, the transactions timed out altogether and needed to be re-initiated. As a result of these outages and delays, AT&T was able to submit only a fraction of the orders that it needed to process, causing a backlog of orders.[19]

21. When Verizon's GUI interface functions very slowly—so slowly so as to be effectively unavailable, Verizon's poor interface performance is not captured in the C2C reports. Of the two relevant pre-ordering metrics that examine OSS response time (PO-1) and OSS availability (PO-2), neither metric captures the problem of extremely slow OSS response times.

PO-1, OSS Response Time, measures the average response times for CLECs' submission of various types of pre-ordering transactions over the Web GUI and EDI interfaces.[20] Slow response times lasting more than five and one-half minutes (330 seconds) are *excluded* from this measurement, however. The PO-1 definition specifically states that such exclusions will be reported as timeouts and measured as part of PO-2, OSS Interface Availability.

22. PO-2, in turn, measures the time during which the OSS interface is actually available as a percentage of scheduled availability. The methodology for this metric, however, does *not* prescribe that slow response times that CLECs report should be measured as OSS outages. Rather, the measurement methodology is based on a Verizon robot that evaluates whether it is able to successfully submit at least one transaction during a 10-minute interval. As long as the Verizon robot is able to submit one transaction during the 10 minute interval, then regardless of whether a CLEC is experiencing slow response times of more than five minutes, Verizon will report the interface as available for that period.[21] Consequently, the C2C Guidelines do not detect

---

[19] AT&T Main Brief in M-00001435 at 21-22; AT&T Comments to January 2001 Commercial Availability Data , M-00001435 (March 23, 2001) at 4-5.

[20] All references to the Pennsylvania Carrier-to-Carrier Guidelines are to the February 5, 2001 version that Verizon submitted during the course of this proceeding and which were approved by the Pennsylvania Commission pursuant to Order entered February 22, 2001 at Docket Nos. M-00001435 and P-00991643. This Order approved a stipulation of the parties to use the February 5, 2001 version of the C2C Guidelines for purposes of the commercial availability period in this proceeding and thereafter subject to review contemplated in the *Performance Measurements Proceeding* at Docket No. P-0099143. The metrics incorporated DSL metrics and became effective as of January 1, 2001.

[21] March 6, 2001 Technical Conference, M-00001435, at Tr. 17-18, 22, 25.

and report on CLEC actual slow response times, but instead artificially overstate the OSS interface availability and response times.[22]

23. This deficiency in the performance reporting requirements must be corrected, in order to assure that Verizon's slow Web GUI response time is detected and appropriately sanctioned as part of the Performance Assurance Plan. This gap in the C2C Guidelines may be filled by requiring Verizon to include any CLEC reported response times lasting more than five minutes in the measurement of PO-1.[23]

24. The Pennsylvania C2C Guidelines also lack any performance measurements or standards applicable to billing completion notices ("BCNs"). Following the New York OSS service crisis that occurred immediately following Verizon's entry into the New York interLATA market, the Commission and the New York Public Service Commission directed Verizon to begin reporting on its performance in transmitting timely BCNs. A BCN measurement is also in place in Massachusetts, Virginia and New Jersey. Nevertheless, Verizon resisted any suggestion of implementing the comparable BCN measurements in Pennsylvania until the eleventh hour of the State 271 review proceeding. Its offer, however, was contingent upon the outcome of ongoing discussions concerning the BCN metric in the New York C2C Collaborative working group. That group, however, has not yet achieved a final resolution of the issue as of today. Moreover,

[22] This is likely to be the same reason why KPMG did not detect this problem during its OSS third party test. The Pennsylvania Commission's OSS testing did not detect, and thus did not cure, these substantial Web GUI problems. KPMG's evaluation of Web GUI access excluded those times when KPMG attempted to use the Web GUI interface but the GUI was completely out of service. Thus, KPMG evaluation would capture slow response times,[22] but did not reflect instances where the Web GUI was unavailable or so slow as to be effectively unavailable. Also, the time frame for the OSS test was October 2000 and preceding months, whereas AT&T and other CLECs identified problems during the November 2000 and forward time frame.

[23] While AT&T raised this issue during the state 271 review proceeding, the PaPUC failed to decide this issue in its *Consultative Report*. *See* AT&T Main Brief in M-00001435 at 23-24.

Verizon has not proposed any specific BCN performance measurement language in Pennsylvania and has taken absolutely no action to follow up on its alleged offer. Consequently, according to Verizon's offer, it still remains free of *any* obligation to report on BCN timeliness as of today.

25. In other instances, the metrics implemented in Pennsylvania are missing key submetrics and, therefore, are not consistent with, and are inferior to, corresponding metrics in other states. A key example is the reporting of OR-5-03, the "flowthrough-achieved" measurement reported in New York but not in Pennsylvania. As discussed in the accompanying Declaration of Messrs. Fawzi and Kirchberger, the New York measurements evaluate the overall flow-through rate and the simple flow-through rate for non-complex orders (OR-5-01 and OR-5-02). In addition, New York has a third flow-through measurement, OR-5-03 -- that is omitted altogether from the Pennsylvania C2C Guidelines, -- which measures the flow-through rate that Verizon achieves on orders that are *eligible* to flow through its systems without manual processing. In contrast, the flow-through measurements in Pennsylvania (OR-5-01 and OR-5-02) measure the relationship of flow-through orders compared to the total number of orders (both flow-through *and* non-flow-through). These OR-5-01 and OR-5-02 measurements do not capture the flow-through efficiency rate of Verizon's OSS on orders that are in fact designed to flow through.

26. Under the New York PAP, Verizon is subject to remedies payments for failing to meet performance standards with respect to its total flow through and flow-through achieved measures. In Pennsylvania, however, the C2C guidelines contain no measurement of Verizon's achieved flow-through rates. Moreover, the flow-through measures in the Pennsylvania C2C Guidelines are included for "diagnostic purposes" only and are excluded from the PAP in Pennsylvania. Indeed, recognizing the importance of flow-through measurements, the New York

PSC has established a "special provision" in the New York PAP that requires Verizon to pay $2.5 million for each quarter in which it fails to meet a standard of 80% for OR-5-01 or a standard of 95% for OR-5-03. This has provided Verizon-New York with an incentive to improve its flowthrough performance, and in fact its performance has significantly improved in this area over the last year, from 71% in January 2000 to 85% in May 2001. However, no such provision applies to Verizon-PA, leaving it without similar incentives to improve its performance. In comparison to the OR-5-01 flowthrough rate of 85% in May 2001, Verizon reported a total flowthrough rate in Pennsylvania of only 66% for OR-5-01 for the comparable time period. This substantial gap should also be rectified before Verizon PA's metrics and associated remedies are considered complete.

V. THE PENNSYLVANIA PAP IS ALSO INSUFFICIENT TO DETECT DISCRIMINATORY CONDUCT BECAUSE VERIZON HAS FAILED TO REPORT ON ALL PUC-PRESCRIBED PERFORMANCE MEASUREMENTS IN ACCORDANCE WITH THE PUC'S PRESCRIBED DEFINITIONS AND BUSINESS RULES.

27. Verizon has continually failed to comply with explicit PaPUC directives to report on various metrics and pay remedies on those unreported metrics. In an effort to mask its disregard of its reporting obligations, Verizon has provided incomplete and misleading information to the PaPUC concerning the status of its reports. At the same time, it withheld all information to CLECs concerning the status of incomplete and inaccurately reported metrics. Further compounding its blatant contempt for PaPUC orders, Verizon has refused to correct erroneous and incomplete monthly C2C reports once the reports have been issued, unless specifically directed to do so by the PUC. Verizon's repeated failures to comply with PaPUC orders and to provide full and complete C2C reports (even after continual follow-up contacts from AT&T to Verizon) make clear that the Performance Assurance Plan is not self-executing or complete.

28. Under the PaPUC's December 31, 1999 Order in the *Performance Metrics Proceeding,* Verizon was required to begin measuring and collecting data concerning its wholesale performance relative to the Guidelines in March 2000, and to begin providing monthly reports of the C2C Guidelines in April 2000.[24] The only exceptions to this mandate related to seven specifically identified metrics for which the PUC had expressly granted extensions of time for the start date for reporting.[25]

29. Contrary to the PUC's directives, however, Verizon has failed to report on all required metrics beginning with the first monthly C2C report in April 2000 and continuing through to the present. Between July 2000 and January 2001, *Verizon failed to provide a monthly report a total of 485 submetrics.* As recently as January 2001, Verizon failed to report on 22 submetrics.[26] At no time did Verizon request permission from the PUC to excuse its non-

[24] *Performance Measurement Order* at 179-180.

[25] These measurements were PR-9, Hot Cuts; NP-2, Collocation Performance; BI-4, DUF Accuracy; BI-5, Accuracy of Mechanized Bill Feed; BI-6, Completeness of Usage Charges; BI-7, Completeness of Fractional Recurring Charges; BI-8, Non-Recurring Charge Completeness. Verizon was directed to begin reporting on the five billing metrics within six months of the February 1, 2000 effective date of the Guidelines, or commencing with the September 2000 measurement period. Since the PaPUC approved the parties' agreement to implement the metric language for hot cuts that was then being negotiated in New York, no date was set for the commencement of reporting of PR-9. Likewise, there was no established starting point for reporting the NP-2 collocation metric, since the PUC referred the development of a collocation metric to the then-ongoing collocation proceeding.

[26] Technical Conference at Tr. 17-19 (M-00001435, 3/15/01); Verizon's Response to In-Hearing Data Response No. 97.

July 2000	303 metrics reported as under development
August 2000	40 metrics reported as under development
September 2000	20 metrics reported as under development; 4 metrics reported as under review.
October 2000	21 metrics reported as under development; 15 metrics reported as under review.
November 2000	20 metrics reported as under development; 13 metrics reported as under review.
December 2000	11 metrics reported as under development; 15 metrics reported as under review; 1 metric reported as no equivalent function.

Footnote Continued on next Page...

compliance with the Order.[27] Verizon's proven track record demonstrates that simply because Verizon is directed to report on a measurement is by no means an assurance that Verizon will promptly comply. Consequently, any new performance measurements that Verizon is directed to implement must be verified to be accurately in place and capable of being reported *before* the Commission may conclude that the revised C2C guidelines are sufficiently comprehensive to detect Verizon's discriminatory conduct.

30. Verizon compounded these failures by refusing to correct them. Verizon never once went back and recomputed a monthly C2C report after it implemented a measurement of a metric that was previously reported as "under development" or "under review."[28] Verizon likewise has never gone back to recalculate its remedies report to determine whether an unreported metric was subject to remedies and whether the monthly metric performance should have triggered a remedy payment. For example, in July 2000 alone, when Verizon reported 303 metrics as "under development," Verizon never attempted to revisit whether the 22 metrics that could have exposed

January 2001	6 metrics reported as under development; 15 metrics reported as under review; 1 metric reported as no equivalent function.

[27] Technical Conference at Tr. 87 (M-00001435, 3/13/01).

[28] Technical Conference Tr. at 19-20 (M-00001435, 3/14/01). AT&T raised this concern to the PUC but unfortunately, the PUC wrongly dismissed this concern as moot because Verizon purportedly is now reporting on most metrics.. *See* AT&T's Main Brief in M-00001435 (filed April 18, 2001) at 48; *Consultative Report* at 269. The PUC failed to consider the many continuing instances of Verizon's misreporting of performance results because of Verizon's failure to adhere to the C2C Guidelines and performance measurement definitions set forth therein. Verizon should be required to recompute the monthly performance reports and remedies payments for any metrics that were not correctly or completely reported.

it to Tier II remedies payments were, in fact, met or not.[29] It is highly likely that by categorizing the metrics as "under development," Verizon was able to avoid conceding that it was not meeting the metrics and to avoid paying remedies.[30] Ironically, many of these same metrics that were labeled "UD" in Pennsylvania were being reported in New York. Further, there is no governing restriction on Verizon's ability to unilaterally categorize any or all measurements as "under review" and evade reporting the performance and paying the associated remedies for performance failures.

31. This last point is particularly troubling, since Verizon has also advised that it has no clear policy – and in its view no obligation--for correcting prior erroneous reports.[31] Indeed, Verizon apparently views this as a matter within its sole discretion. That is another fundamental shortcoming and fatal design flaw in the Pennsylvania PAP. In other states, such as New Jersey, Verizon is required to recompute and resubmit any reports found to contain errors, and has done so. The same requirement should, but does not, pertain to the Pennsylvania PAP. Consequently,

[29] WorldCom Exh. 6, M-00001435. It is extremely difficult to detect the number of unreported metrics that may have triggered remedy payments from August 2000 forward. This is because Verizon did not report "UD" or "UR" metrics on its monthly remedy summaries in those later months. Instead, Verizon apparently listed "0 CLECs" as having any activity in those submetrics (which were in fact "UD" or "UR" or "NEF" [No equivalent retail function]) and therefore paid no remedies on those submetrics. It is impossible to be certain, however, of which submetrics were in fact unreported and those submetrics for which there truly was no CLEC activity in a given month. Only by manually reviewing the CLEC aggregate C2C monthly reports to identify each submetric for which Verizon reported a "UD" or "UR" in place of a value, and by cross-checking those submetrics against the monthly remedies report, could it be discerned whether Verizon reported a zero as the number of CLECs with activity when in fact the metric was "UD," "UR," or "NEF." This is in fact illustrative of how Verizon has made the metrics reporting and monitoring process incredibly difficult and disorganized. Indeed, it was only through the discovery process that CLECs were able to obtain information regarding the monthly metrics summary report of Tier II remedies payments.

[30] AT&T raised this concern to the PUC in the course of the state 271 proceeding, but the PUC nevertheless failed to direct Verizon to recompute remedies reports for unreported metrics once Verizon began measuring and reporting on the metric. AT&T Main Brief in M-00001435 at 43, 53-54 (filed April1 8, 2001); *Consultative Report* at 264, 269.

[31] Response of Verizon Pennsylvania Inc. to AT&T Interrogatories, Set I, No. 125, M-00001435.

Verizon PA's performance assurance plan can hardly be called "stringent" or "self-executing" such that it meets the requirements necessary to support a 271 application.

32. Complicating matters even further, Verizon also has violated the PaPUC's orders by knowingly deviating from the C2C guidelines for measuring and reporting various metrics. Verizon again did not seek, much less obtain, advance permission – or subsequent approval --for these instances of non-compliance. Not surprisingly, CLECs have identified commercial experience problems in at least two areas where Verizon has deviated from metrics definitions and then reported satisfactory performance in its monthly C2C reports.

33. For example, in metric OR-6-03, Verizon is required to report the order accuracy of its local service request confirmations—commonly referred to as firm order confirmations ("FOCs") -- by reporting the percentage of FOCs that it had to resend CLECs due to errors that Verizon committed in issuing the original FOC. The performance standard definition prescribes that Verizon must compute a percentage as follows: the numerator is comprised of all FOCs that were resent due to Verizon error and the denominator is all FOCs. Verizon, however, conceded in response to questioning during the state 271 technical conferences that it has never and still does not today comply with this prescribed methodology. Instead, Verizon only *samples* 20 UNE and Resale FOCs each day, or 400 FOCs per month, to measure this metric.[32] Even though Verizon filed twice for reconsideration of various metrics issues, including issues regarding OR-6-03, Verizon never formally advised or sought PUC approval of the sampling process it has unilaterally decided to use to measure all FOCs.[33]

[32] Technical Conference at Tr. 11-16 (M-00001435, 3/13/01).

[33] Technical Conference at Tr. 58-59 (M-00001435, 3/13/01).

34. Apparently, in the months of May through July 2000, Verizon reported OR-6-03 as "under development" in both the C2C monthly reports and the CLEC aggregate monthly remedies summary. Since August 2000, however, Verizon simply reported in monthly CLEC aggregate remedies reports that no CLEC had activity in that metric (and as thus owing no remedies for violations of that metric), while continuing to report OR-6-03 as under development in the monthly C2C reports. Even when Verizon began reporting results for OR-6-03 beginning with the January 2001 performance reports, Verizon incorrectly used a sampling methodology to compute the percentage of local service confirmations that it resent due to Verizon errors. Since January 2001 through May 2001, Verizon has reported that it has met the performance standard, that no more than 5% of Local Service Request Confirmations ("LSRCs") are resent due to Verizon error.

35. At the same time that Verizon's application of incorrect business rules produced results that purportedly showed its compliance with OR-6-03, XO Communications reported that its own commercial experience showed that Verizon had to resend to XO 25% of its LSRCs in January 2001 and 23% of its LSRCs in February 2001 because of incomplete and missing information.[34]

36. More recently, Verizon unilaterally changed the retail analog for measuring the parity standard applicable to the PO-1-04 (Product and Service Availability) pre-order query.[35]

---

[34] Comments of XO Pennsylvania, Inc. on Verizon Pennsylvania Inc.'s February 2001 Carrier-to-Carrier Reports at 2 (filed April 13, 2001).

[35] AT&T Exh. 2, M-00001435 (January 25, 2001 letter). Verizon's state 271 Measurements Declaration explained in more detail:

Footnote Continued on next Page...

According to Verizon's letter to the PaPUC, made this change "to be consistent with the transaction change on the wholesale side" and vaguely refers, without citation, to a "settlement of a dispute proceeding brought by the CLECs to provide at the FCC" as the basis for the wholesale change in the pre-order query.[36] Although it requires several months for Verizon to implement a change to its metrics, which would have provided sufficient opportunity to inform the PaPUC and CLECs before the change was finalized, Verizon instead chose to wait to disclose this modification after it was finally implemented.

37. Verizon had no authority to make this change. When Verizon previously sought PaPUC permission to remove the performance standard for this submetric,[37] its request was expressly *denied*.[38] Nevertheless, in complete disregard of the PUC's November 2000 ruling, Verizon again used self-help to unilaterally change the retail analog measurement of this metric. The opportunity for Verizon to mask its discriminatory performance in such circumstances is obvious. Notably, PO-1-04 is one of the submetrics for which Verizon measures and reports and

---

> As a result of a recent settlement of a dispute brought by CLECs at the FCC, however, the Product and Service Availability transaction has been modified to provide CLECs with much more information than is provided to Verizon PA retail personnel. The information Verizon PA provides to CLECs in one transaction, Verizon PA provides to its own retail representatives in six different transactions. Because CLECs receive much more information per transaction, it takes Verizon PA's systems more time to go to the appropriate databases to retrieve and download the information. As a result, it is no longer appropriate to compare the timeliness of Verizon PA's pre-ordering response times to CLECs for Product and Service Availability against its response to its own retail representatives.

Canny/DeVito Declaration, M-00001435 (January 8, 2001) at ¶31. The fact of the matter is, Verizon had already raised these concerns to the PUC, and the PUC had already rejected its request to exclude PO-1-04 Product and Service Availability measurement from the performance standards. In addition, Verizon never explained or substantiated the referenced settlement, nor provided any indication that the settlement addressed the performance measurement issue that it sought to modify before the state commission.

[36] *Id.*

[37] Opinion and Order, *Performance Measurements Proceeding* (November 14, 2000) at 7.

[38] *Id.* at 8. "In addition, Verizon's request to remove submetric PO-1-04 from the performance measures and standards is denied."

pays remedies on an industry-wide basis. [39] Any failure of this metric, therefore, requires Verizon to pay every CLEC with activity in that performance measurement category. Verizon correspondingly had a very substantial incentive to modify the manner in which it reported this metric to avoid incurring remedies payments.[40]

38. These examples are not isolated incidents. In fact, since October of 2000, Verizon has filed with the PUC a *monthly* list of deviations from the prescribed C2C performance standards that are contained in the CLEC aggregate monthly performance reports. In not one instance of a reported deviation did Verizon seek advance PUC permission or a waiver from the C2C guidelines. The monthly list of deviations for January through March 2001 is attached as Exhibit "A."

39. Not once did Verizon go back and re-issue any of the monthly performance reports and remedies calculations once the deviations were been resolved. Nor does Verizon advise competitors whether identified problems have in fact been corrected.[41] Indeed, the first time that *any* information (other than the cover letters transmitting the monthly C2C reports) was shared with competitors was in Verizon's Exhibit 1 to its June 4, 2001 data request response.[42] In response to a staff data request issued just days before the PUC voted on its recommendation regarding Verizon's section 271 application, Verizon provided new, additional information

[39] Guerard/Canny/DeVito Declaration at 66.

[40] During the period July through November 2000, for which information is available, Verizon failed PO-1-04 Product and Service Availability each month and incurred monthly remedies payments averaging $20,000 per month.

[41] AT&T raised this concerns to the PaPUC, but the PaPUC did not expressly address them. *See* AT&T Main Brief in M-00001435 at 43.

[42] Even obtaining the cover letters from Verizon has been problematic. Verizon routinely did not serve competitors with the cover letters transmitting the monthly C2C reports until after the Section 271 case began, so competitors were not routinely made aware of the scant information contained in those letters.

concerning metrics reporting discrepancies that it had never before disclosed. This information is attached as Exhibit "B" and only identifies a "correction target month" for problems that remain outstanding.

40. A comparison of the reporting inaccuracies afflicting the March and April 2001 performance reports reveals that Verizon's own documentation discloses that Verizon's reporting is *getting worse and not better* with the passage of time. In the March 2001 C2C reports, Verizon noted 10 categories of reporting problems affecting all provisioning and maintenance and repair metrics, in addition to 14 specifically identified metrics reporting problems. The problems worsened in its April 2001 C2C reports. In that report, Verizon noted 17 categories of reporting problems affecting well over 31 metrics. Of the 17 noted problem categories noted in the April 2001 reports, 14 were new problems that had not been identified in earlier months. Verizon's data request response also reveals for the first time that reporting problems for 14 of the 17 problem categories reported in April 2001 in fact adversely affected 31 of the metrics listed on each of the monthly C2C reports since at least January 2001 through March 2001. These problems are itemized in Exhibits "A" and "B" and affect metrics covering all five of the OSS domains: preordering (PO-1 and PO-2-03); ordering (all "specials" ordering metrics and OR-6-03); provisioning (at least 7 different problems afflicting a multitude of unspecified, "varied" metrics); maintenance and repair (the number of affected metrics remains unclear); and, billing (BI-4-01, BI-4-02, BI-5-01 are measured and reported incorrectly).

41. It is evident from reviewing these identified metrics inaccuracies that Verizon's misreporting resulted in its reporting of more favorable results than the PUC-prescribed Guidelines would have yielded. As described above, Verizon's use of self-help to modify the manner in which it reports the PO-1-04 Product and Service Availability preordering response

time produces more favorable results by enlarging the length of the retail preorder response which is used to measure whether the competitors' response time is at parity.

42. Another example concerns the manner in which Verizon reports on billing metrics. As Messrs. Fawzi and Kirchberger explained in their OSS Declaration, Verizon is supposed to report its results for the bills that it issued *two* months prior to the reporting month. This lag is necessary to enable CLEC reports of billing disputes and claims to be incorporated into the billing metrics calculations. Instead, Verizon has consistently reported the billing metrics based on billing data generated in the reporting month. Consequently, Verizon has never recognized competitors' disputes and claims applicable to those bills that would have been received in all likelihood following the close of the metrics-reporting period. Not surprisingly, Verizon claims that for those billing metrics it reported on the January through May 2001 monthly performance reports, Verizon did not fail a single billing metric.

43. An RBOC's unilateral deviations from regulatory-prescribed performance standards and guidelines are completely unacceptable and sanctionable. Recently, the Commission issued a forfeiture penalty of $88,000 against SBC Communications because SBC failed to accurately report certain metrics that the Commission had prescribed as a condition of SBC's merger with Ameritech.[43] In that case, SBC had failed to report certain performance data in accordance with the published "Business Rules" adopted in a Carrier-to-Carrier Performance Plan -- the equivalent of the Pennsylvania Carrier-to-Carrier guidelines. The Commission imposed the forfeiture for rules violations regardless of whether the metric in question triggered a performance payment and

[43] *In re SBC Communications Inc. Apparent Liability for Forfeiture*, File No. EB-00-IH-0432, DA 01-680 (Order Released March 15, 2001).

regardless of whether the infraction tended to understate or overstate SBC's performance. As the Commission explained:

> [T]he very reason for the Commission's adoption of the Business Rules is to provide *uniform reporting standards* that would permit the Commission to focus its efforts on analyzing the results of the data, rather than monitoring the gathering of the data. The Business Rules also enable the Carrier-to-Carrier Performance Plan to work in a self-executing manner to ensure timely disclosure of accurate performance data and submission of any required payment.[44]

44. These concerns are equally relevant here. Because of these unauthorized changes to the PUC ordered C2C Guidelines, Verizon's C2C monthly reports and remedies payments are misleading and inaccurate. Indeed, it is impossible to review the C2C reports and identify on their face whether the reported results accurately depict the C2C guideline results or whether they depict Verizon's own, undisclosed version of the C2C guidelines. It is thus impossible for the Commission to rely on those reports as a basis for assessing Verizon's wholesale performance.

VI. THE DATA THAT VERIZON USES TO COMPUTE ITS WHOLESALE PERFORMANCE REPORTS IS NOT VALID AND NOT VERIFIABLE.

45. As part of its third party test of Verizon's OSS, KPMG examined Verizon's metrics reporting process and concluded that Verizon failed to produce accurate monthly performance reports. KPMG concluded that Verizon has failed to satisfy the metrics replication portion of the third party test. Of the total 16 test points in the metrics replication test, Verizon did not pass 6 or 33% of the test points.[45] KPMG's test did not evaluate whether Verizon is able to correct

[44] *Id.* at ¶13 (emphasis added; footnote omitted).

[45] KPMG Final Report at 651-666.

retrospectively metrics reporting mistakes and reissue previous monthly reports that contain incorrect or incomplete information.[46]

46. Aware of this major deficiency, the PaPUC required Verizon to retain KPMG to conduct an additional metrics replication study of the January 2001 C2C CLEC aggregate performance report, as a condition of allowing Verizon to file its request to initiate a state proceeding to review whether Verizon is in compliance with the 271 competitive checklist. KPMG's data replication report was issued in March 2001.

47. But because of the limited scope of its engagement, KPMG did *not* validate the accuracy of Verizon's performance reports.[47] Indeed, the record shows that KPMG's data replication study provides no insight into whether the information contained in Verizon's C2C reports is in fact accurate or complete.[48] In particular, KPMG's study did not verify Verizon's adherence to the measurements and definitions contained within the C2C guidelines.[49] Nor did KPMG examine any of the methods and procedures that Verizon used to extract the flat file data from its systems to form the basis of the metrics replication study.[50] All that KPMG accomplished was to replicate the reported results based on Verizon's flat files, using the *very same data* that Verizon had initially used to compute the metrics.[51] Consequently, any errors that Verizon

---

[46] OSS Workshop Tr. at 523 (M-00991228, 12/8/00). Retrospective correction of previously issued inaccurate reports is essential in order to evaluate the relative performance of Verizon's OSS compared to the service that Verizon provides to its own retail operations, and to determine whether Verizon properly computed any remedy payments that may be due to CLECs as a result of Verizon's substandard wholesale OSS performance.

[47] Technical Conference Tr. at 16, 20, 25, 28, 33, 44, 46 (M-00001435, 4/10/01).

[48] *Id.* at 46.

[49] *Id.* at 44.

[50] *Id.* at 33.

[51] *Id.* at 16.

committed in obtaining the data extracts from its internal systems were perpetuated in the KPMG study.[52]

48. If anything, KPMG's experience in conducting the study only confirmed the difficulties CLECs face in analyzing Verizon's performance reports. Unlike a new entrant, KPMG did not start cold with its data replication study, but rather built upon the 18 months of knowledge and experience it acquired during the third party test.[53] But even with that resident knowledge, KPMG required over 4 full-time personnel to work on the data replication study for a full 30 days[54] – a resource commitment no CLEC is likely to be able to afford. KPMG's efforts were also facilitated by the fact that Verizon provided it with technical specification information that was not contained in the C2C guidelines and that assisted the KPMG work effort.[55] Obviously, KPMG's sophistication and access to technical specifications concerning data replication dispel any implication that the data replication effort is either easy or straightforward.

---

[52] For example, KPMG witnesses confirmed that it performed its review of OR-6-03 (Local Service Request Confirmations resent due to Verizon error) based on the same samples of those orders that Verizon initially relied to compute the metric. KPMG did not examine *all* of the resent Confirmations—as required by the performance measurements definition—to replicate that metric, since according to KPMG, it was outside the scope of the assignment to determine whether the *underlying data* Verizon used to compute the January 2001 CLEC aggregate metrics complied with the C2C guideline performance measurements definitions. Technical Conference at Tr. 44-47 (M-00001435, 4/10/01). The relevant transcript pages of the April 10, 2001 technical conference are attached hereto as Exhibit "C."

[53] Technical Conference at Tr. 42 (M-00001435, 4/10/01).

[54] *Id.* at Tr. 40.

[55] MS. KRIETE: Can you describe for us what those technical specifications are?

MR. TITTLE: When we receive a data set, it will have a number of different fields within the data, and the technical specifications essentially calculate – for instance, let's say you're doing a date range or something like this. It would be take this particular date field that you have and subtract it from this date field that we've delivered as well. That would be a technical specification.

MS. KRIETE: Is that information contained in the C-to-C guidelines themselves?

MR. TITTLE: No. (April 10, 2001 Technical Conference at Tr. 39-40)

49. Verizon also attempts to rely on KPMG's May 31, 2001 report concerning the commercial availability period as somehow verifying the accuracy of its CLEC aggregate metrics reports—despite Verizon's own contradictory admissions as set forth in its monthly transmittal letters to the PaPUC that the metrics reports contain numerous inaccuracies. This KPMG report, however, also does not fill the holes in Verizon's CLEC aggregate metrics reports and provides absolutely no cover to Verizon.

50. KPMG makes clear that its own analysis of the commercial availability data was extremely limited. It simply identified whether there were discrepancies between Verizon's reported results and CLEC's reported performance results.[56] In 12 instances where KPMG observed a discrepancy between Verizon's and the CLEC's reported results, KPMG's inconclusive finding simply stated that "the reason for the mismatch in data can only be determined by performing data integrity analysis on both Verizon Pennsylvania and [the CLEC's] data sets."[57] It should come as no surprise, under the circumstances of KPMG's limited review, that KPMG did not fully substantiate any of the CLEC's identified issues. Nor, for that matter, did KPMG verify the accuracy of Verizon's reported results. In fact, for many of the data discrepancies that KPMG confirmed based on CLECs' commercial availability experience, Verizon *itself acknowledged that its manner of reporting the data did not comply with the C2C guidelines,* in its monthly C2C transmittal letters.[58] Although KPMG may not have drawn any

[56]KPMG Pennsylvania Commercial Availability Review, Final Report – Metrics, Version 1.1 at 10-24 (June 15, 2001).

[57] *See, e.g., Id.* at 12.

[58] For example, OR-1, OR-4, OR-6-03, BI-2, BI-4 and all provisioning metrics.

conclusions about the validity of the CLECs' reported data discrepancies, Verizon's own transmittal letters unequivocally tell that story.

51. In 10 of the instances where CLECs provided data that showed different—and worse—service quality from Verizon than Verizon's reported results, KPMG confirmed *only* that such differences in data existed. For example, AT&T reported an order confirmation timeliness rate of only 85% for January 2001, yet Verizon reported a 100% on time rate. In no instance did KPMG either (i) investigate the differences to reconcile them or (ii) explain why Verizon's reported results differed from CLECs' own collected data.

52. In all 11 of the instances where CLECs provided provisioning performance data, KPMG also confirmed that differences in the data from CLECs and Verizon were due to *Verizon's* failure to provide certain data to CLECs that they needed to be able to compute the C2C metrics in the same manner that Verizon did. For example, Verizon uses a certain data point known as the "CRIS internal field" to calculate its provisioning metrics.[59] Verizon, however, does not share this information with CLECs even though this information is only resident on Verizon's systems, and CLECs have no independent means of obtaining this information other than from Verizon. Even for these provisioning metrics, however, KPMG did *not* conclude that Verizon's reported results were accurate.[60] For example, as to PR-1, average interval offered, AT&T provided January 2001 data to show that its average interval is 2.75 days whereas Verizon showed a 1.65 day interval. For PR-3-03, the percentage of orders completed within 3 business days (without any dispatch), AT&T's data showed an 84.23 % average compared to Verizon's

---

[59] *KPMG Pennsylvania Commercial Availability Final Report-Metrics*, Version 1.1 (June 15, 2001) at 15-20.

[60] *Id.* at 15-20.

reported results of 97.87% for AT&T. KPMG's report further confirms that CLECs are unable to validate Verizon's metrics without obtaining all of the information, formulas and business rules that Verizon uses to develop its monthly C2C reports.

53. Verizon nonetheless tries to contort the inconclusive findings of the KPMG commercial availability report as somehow validating the accuracy of its metrics reports. *See* Guerard/Canny/DeVito Declaration at ¶¶ 145-146. Even though KPMG expressly stated that it was beyond the scope of its engagement to investigate identified differences between CLEC and Verizon performance data to determine which party's data were accurate, Verizon, nonetheless, persists in overstating that KPMG found CLEC complaints about the accuracy of Verizon's data were unsubstantiated. As we explained in above, Verizon's claim simply is not true.

54. Verizon's internal metrics quality team likewise does not cure Verizon's metrics reporting inaccuracies. Like KPMG, this team does *not* independently attempt to extract the raw data from Verizon's systems and then replicate the metrics values contained in the monthly performance reports. Rather, the team *accepts* the data extracts that Verizon has obtained from its systems and attempts to replicate the metrics values using that same data. Any Verizon errors in obtaining the data extracts, therefore, are not detected -- and in fact will be perpetuated -- by the internal team.

55. Further, neither KPMG nor Verizon's internal metrics team has ever examined the accuracy of the CLEC-specific monthly performance reports. There has been absolutely no confirmation that the information set forth on those CLEC-specific reports is consistent with the aggregate information contained in the monthly CLEC aggregate reports. And until its April performance reports, Verizon reported on numerous additional metrics that inexplicably remained

"under development" in the CLEC specific reports even though those values were reported in the CLEC aggregate report.[61]

56. In sum, no amount of third party review can disguise the facts that (i) Verizon unilaterally deviates from the PaPUC's prescribed performance measurements; (ii) its monthly performance C2C reports fail to accurately report various measurements in accordance with the PaPUC's prescribed performance measurements definitions; and (iii) no third party review has validated the end-to-end process of computing metrics, including the manner in which Verizon selected the underlying data extracts.

VII. VERIZON'S FAILURE TO PROVIDE SUFFICIENT EXPLANATIONS AND BACKGROUND INFORMATION CONCERNING THE MANNER IN WHICH THE MONTHLY PERFORMANCE REPORTS AND REMEDIES CALCULATIONS ARE COMPUTED MAKES IT VIRTUALLY IMPOSSIBLE FOR CLECS TO VALIDATE THE MONTHLY PERFORMANCE REPORTS.

57. Verizon has made it extremely difficult for any carrier to conduct any meaningful analysis of the C2C reports. Before such an analysis can be undertaken, CLECs need and Verizon must be required to specifically provide, for each set of monthly reports: (1) identification of the actual guidelines that are used for the reported metrics if they are in any respect different from the C2C Guidelines; (2) a clear statement of any metric or submetric measurements that are excluded and why; (3) a full and complete set of all CLEC-specific reports, CLEC aggregate reports, Verizon retail aggregate reports and Verizon affiliate aggregate reports; (3) all raw underlying data files; (4) explanation of any allegedly inaccurate metrics; and (5) explanation of remedies

[61] For example, in the March 2001 AT&T CLEC specific report, Verizon continued to report all of the submetrics for NP-1-01, NP-1-02, NP-1-03 and NP-1-04 as under development but reported values for these submetrics in the March 2001 CLEC aggregate report.

payments that may be due to each CLEC, including the calculation of any pro rated remedies payments made to CLECs.[62]

58. Verizon is not meeting its obligation to provide clear and concise reports. For the reports AT&T actually does receive, the information Verizon provides is often indecipherable. For example, Verizon provides no explanation of the contents of the report so there is no way of identifying whether specific performance standard definitions that are being reported in any given month are consistent with or deviate from Verizon's published Carrier-to-Carrier Guidelines. As shown above, the performance standards Verizon actually applies have become a moving target and Verizon takes liberties with the manner in which it construes the performance standards definitions by failing to provide required information or omitting certain metrics from the reports. Consequently, the reports leave AT&T and other CLECs in the dark.

59. Despite repeated requests, Verizon has never given AT&T or any of the other CLECs any explanations or descriptions of what is contained in the monthly CLEC aggregate and CLEC-specific C2C reports. While Verizon points CLECs to the five page Performance Assurance Plan and the monthly cover letters that transmit the performance reports to the PUC for an explanation of what is in the monthly reports,[63] the fact is that these documents contain little useful information about the format of the monthly reports or a key/guide for reading or interpreting those reports.

[62] AT&T raised these concerns to the PaPUC. The PaPUC chose to defer consideration of these concerns to a future proceeding addressing performance measurements and remedies. *PUC Consultative Report* at 268-269. Future discussions, however, do not cure the present deficiencies in Verizon's performance reporting and certainly do nothing to remove these barriers that, among other reasons, preclude the PAP from being self-executing.

[63] AT&T Exhibit 4 in M-00001435; Response of Verizon Pennsylvania Inc. to AT&T Interrogatories, Set I, No. 128, M-00001435.

60. AT&T has sought to obtain explanatory information in other venues, but to no avail. During the third party test of its OSS, AT&T asked both Verizon and KPMG about the existence of business rules that CLECs could consult concerning the monthly metrics reports and remedies payments. KPMG explained that, in order to complete its metrics analysis and data replication efforts, it first consulted the C2C guidelines but required more information to undertake its calculations:

> That [the C2C Guidelines] would not provide, in enough detail, how to use the data provided by Verizon to come up with a value that would be populated on the report, so we also receive detailed algorithm descriptions which tell us basically how to use the data provided to exclude certain orders, exclude fields, include fields, to come up with the value populated on the reports.[64]

Verizon, however, continues to insist to this day that CLECs should be able to comprehend and decipher the monthly performance reports by simply consulting the C2C Guidelines, although KPMG clearly found it necessary to consult Verizon's additional "Technical Documentation" to be able to decipher Verizon's C2C methodology and calculations.[65]

61. To this day, all that AT&T has received are the file layout formats for some of the raw data files that Verizon is supposed to provide requesting CLECs on a monthly basis. Even

---

[64] OSS Workshop Tr. at 377 (M-00991228, 12/8/00). *See also KPMG Final Report of Verizon Pennsylvania Inc. OSS Evaluation Project, Version 2.0* at 624 (which describes Verizon's metrics technical documentation typically consisting of: (a) a basic description of the data provided, including a description of the data and any exclusions that have been applied; (b) basic documentation of the variables provided in the dataset(s) and of the variables involved in the metrics calculations; (c) detailed instructions for computing each metric; and, (d) programming code, where applicable, with complementary notes and instructions).

[65] Technical Conference Tr. at 35 (M-00001435, 4/13/01); Technical Conference Tr. at 117-118 (M-00001434, 4/14/01). Verizon claims that CLECs only need the raw underlying data and the C2C guidelines to be able to replicate Verizon's monthly reports, and further claimed that this is the only information that KPMG relied upon in conducting its metrics replication test within the OSS third party test. KPMG's report and testimony during the OSS workshops belies this claim. The fact of the matter is, CLECs need but do not have access to Verizon's metrics Technical Documentation in order to comprehend and verify the accuracy of the monthly performance reports. Unfortunately, the PaPUC failed to address this concern in its *Consultative Report.*

obtaining the monthly C2C performance reports is frequently problematic. While Verizon's provision of this information improved slightly during the January through March 2001 period, it again declined in both April and June. In April, Verizon failed to timely provide AT&T with the raw data files underlying the monthly performance reports, and AT&T had to make repeated inquiries to finally obtain—albeit some 10 days late-- a complete set of the monthly performance reports and raw data files for June. Whether through sheer inadvertence or design, Verizon continues to prevent CLECs from meaningful scrutiny of their monthly performance reports by failing to provide them with the required information on a regular basis, as prescribed in the Pennsylvania PAP. This is yet further evidence that the current PAP is not self-executing and enforceable.

62. Verizon must also be required to provide CLECs with its monthly aggregate remedies report so that the PaPUC and CLECs can monitor Verizon's wholesale service performance and determine whether the remedy payments are providing incentives to Verizon to repair wholesale service problems. Verizon only began providing individual CLECs with CLEC-specific monthly remedies reports as part of this 271 proceeding, and has only provided the CLEC aggregate remedies reports for the months of May 2000 through November 2000 in response to AT&T's discovery, and has not voluntarily provided any of the aggregate remedies summary To remove any doubt that Verizon should and must routinely provide this information to CLECs, the Commission should make clear that Verizon is must simultaneously provide **both** the CLEC-specific and CLEC-aggregate remedies reports to CLECs each month.

63. AT&T's most recent experience in its failed attempts to obtain its May 2001 monthly performance and remedies reports illustrates the extent to which Verizon's implementation of the PAP makes it the opposite of self-executing. Under the PaPUC requirements, Verizon is required

to provide CLECs with monthly performance reports on the 25th day of the following month. Only by making repeated inquiries and requests for the reports and underlying flat files, AT&T finally obtained the May 2001 reports ten days late on July 5, 2001. Although Verizon timely transmitted a computer disk purportedly containing the performance reports, the electronic files were missing from the CD. AT&T had to made repeated contacts and inquiries to Verizon to obtain these files but to no avail. While such a problem may be viewed as simply an administrative oversight, the frequency of these problems—which occur virtually each month except for the three months while Verizon was in the midst of the 271 state review proceeding—suggests otherwise. Obviously, if AT&T cannot access and review its monthly performance reports, it has absolutely no ability to review or analyze those reports to determine whether they are accurate. AT&T also has not received a remedies report for May 2001.

VIII. VERIZON FAILS TO ABIDE BY CHANGE MANAGEMENT PROCEDURES REGARDING ITS METRIC CALCULATIONS AND REPORTS, MAKING IT IMPOSSIBLE TO VALIDATE AND VERIFY THE ACCURACY OF THE PERFORMANCE REPORTS.

64. The record establishes that Verizon shares little –and wholly insufficient--information with CLECs about changes to its metrics. In its Final OSS Report issued in December 2000, KPMG found Verizon's metric change control notification process to be completely unsatisfactory,[66] KPMG found that Verizon lacks a "defined and documented procedure for implementing change." KPMG found evidence throughout the course of the third party test that Verizon did not always implement internally approved metrics changes and that the timing of metric changes were "neither clear nor consistent."[67]

---

[66] KPMG Final Report at 646-647.
[67] *Id.*